

REMARKS

The present amendment is submitted in conjunction with a Request for Continued Examination and in response to the final Office Action dated February 23, 2010, which set a three-month period for response, making this amendment due by May 23, 2010.

Claims 1-4 and 7-12 are pending in this application.

In the final Office Action, the specification was objected to for an informality. Claims 1-4 and 7-12 were rejected under 35 U.S.C. 112, first paragraph, as being failing to comply with the written description requirement and for lack of enablement. Claims 1-4 and 7-12 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement and the written description requirement. Claims 1-4 and 7-12 were further rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1-4 and 7-12 were rejected under 35 U.S.C. 103(a) as being unpatentable over US 2,253,195 to Oster.

Turning first to the objection to the specification, the prior amendment to page 6 has been corrected.

Regarding the rejection of the claims for lack of enablement and as failing to comply with the written description requirement, regarding the adjusting element, the Applicant again submits that the disclosure and accompanying figures provide the necessary support to understand this feature and its relationship to the other elements. The Applicants directs the Examiner to Fig. 11 and to the specification, specifically, the paragraph bridging pages 6-7:

Fig. 11 shows a plan view of the cutting head 1 with the lower and upper shearing blades 2, 3 and the stationary eccentric part 42 removed, to make a spring 37 more clearly visible. The lever 33 for manually adjusting the cutting blade 5 has been shown in dashed lines. The cutting blade 5 is guided by a parallel guide 36 by the one-piece, U-shaped spring 37 by two legs 38, 39, and for this purpose the cutting blade 5 is provided with corresponding receptacles 44, 45 for the ends of the legs. The two bores 46, 47 serve to receive the angled ends of the legs 38, 39. The spring 37 is embedded in a carriage 48, so that the cutting blade 5 is capable of moving parallel. For displacing the carriage 48 by the eccentric 13, the carriage 48 has a sliding face 49, represented by the dotted features, which corresponds to a plane face 50 (Fig. 4) of the lower shearing blade 2.

Further, as noted previously, this hair cutting length adjuster 9 is in principle known from EP0856386B1, particularly from Figs. 1 through 5, which is discussed as the state of the art in the present application. It is not necessary for this reference to be incorporated by reference, as the Examiner suggests; rather, the Applicant refers to this reference as evidence of the state of the art on which the invention is based and to support the Applicant's position that a practitioner of ordinary skill in the relevant art would be aware of this state of the art when making and using the present invention.

Regarding the objection to the feature of the lack of "contact-pressure force", the Applicant respectfully submits that it is part of the common general knowledge of mechanical engineers that the force between two surfaces creates a contact-pressure and thereby results in friction. An underlying problem of the present invention as disclosed in the application is to reduce the required strength of a motor and energy consumption when moving a lateral oscillating blade. Thus, a reduction in friction, as well as reduction in mass of the moving

parts, does create a reduction in energy consumption/strength of the motor required. This same general technical knowledge also must be applied tot eh Oster reference.

As explained previously, in the present invention, the lateral movement is achieved without contact-pressure **force** and that therefore, there is low friction. To the practitioner, this clearly means that the meaning of contact-pressure force must be the absence of pressure perpendicular to the plane of the blade when moving it. This also corresponds with what is clearly shown regarding the movement in the drawings.

The Applicant directs the Examiner's attention to the paragraph bridging pages 3-4, which provides:

The cutting blade 5 is made from a thin flat material 7, preferably from a hard metal sheet 7.1, which leads to an extreme reduction in mass and can furthermore be manufactured economically. The cutting blade 5 is preferably provided with a material thickness S of approximately 0.1 to 1.0 mm. Since the low-mass cutting blade 5 is moreover driven without contact-pressure force, substantially less driving energy is necessary, and interfering vibration at the housing 17 of the hair cutting machine 4 is largely suppressed. Because the low-mass cutting blade 5 is moreover driven without contact- pressure force, extremely low friction results, and thus the oil consumption is extremely low.

Withdrawal of the rejections under Section 12, first paragraph, is again respectfully requested, since it is submitted that the objected-to features are described adequately and specifically in the specification.

Turning now to the substantive rejection of the claims, claim 1 adding the features of claim 3, which has been canceled. Claim 1 as amended therefore specifies that the blade is flat and is between 0.1 and 1 mm in thickness.

The figures in the Oster reference clearly show that the thickness of the blade oscillating between the two fixedly provided parts with serrations must have a substantive thickness in order to allow the grooves and the tongue design (see for example the tongue 14 and grooves 14 of Fig. 3 of Oster).

The cutting blade of the present invention is too thin to provide for guiding grooves and tongues formed in it. In contrast, Oster requires these grooves and tongues in order to ensure that the blade oscillating between the fixed portions is guided into a lateral oscillation.

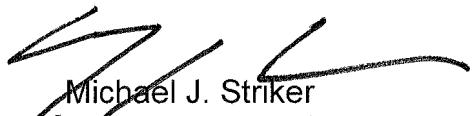
Furthermore, in Oster, the rotation of the pin 6 with the eccentric portion 8 of Oster will create a normal force between the blade and the fixedly surrounding portions, which is in contract to the requirement to not create contact-pressure forces. This force is worsened with the groove and tongue design of Oster due to more surface space. Oster therefore teaches away from the thin cutting blade of the present invention.

It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a prima facie case of obviousness as clearly set forth in MPEP section 2143.01. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims prima facie obvious (see the last paragraph of the aforementioned MPEP section 2143.01). When establishing obviousness under Section 103, it is not pertinent whether the prior art device possess the functional

characteristics of the claimed invention, if the reference does not describe or suggest its structure. *In re Mills*, 16 USPQ 2d 1430, 1432-33 (Fed. Cir. 1990).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully Submitted,



Michael J. Striker
Attorney for Applicant
Reg. No.: 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700